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| 09/652,431 | 08/31/2000 | Roland M. Morley | INTL-0455-US (P9809) | 3795 |

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EXAMINER

JELINEK, BRIAN J

| ART UNIT | PAPER NUMBER |
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2615

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/652,431

Applicant(s)

MORLEY, ROLAND M.

Examiner

Brian Jelinek

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-18 and 20-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-18 and 20 is/are rejected.
- 7) ☒ Claim(s) 21-23 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Response to Amendment

The Examiner respectfully submits a response to the amendment received on 8/13/2004 of application no. 09/652,431 filed on 8/31/2000 in which claims 1-8, 10-18, and 20-23 are currently pending.

Claim Objections

The Examiner thanks the Applicant for correcting objections to the claims.

Arguments

The Applicant's arguments have been fully considered but they are not persuasive. Please refer to the following office action, which clearly sets forth the reasons for non-persuasiveness.

The Applicant concedes that Abe's beam splitter could be positioned near the output of Labaziewicz; furthermore, the Applicant correctly states that Abe's beam splitter accepts input light from one direction and outputs light in two different directions. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "the beam splitter must be able to take light from two different input directions") are not recited in the rejected claim 1. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 20 is rejected under 35 U.S.C. 102(b) as being anticipated by Roth et al. (U.S. Pat. No. 4,237,492).

Regarding claim 20, Roth et al. teaches a camera (Fig. 1, element 14) comprising: a first optical path having a lens with a first field of view (Fig. 1, element 21); a second optical path including a lens with a second field of view different from said first field of view (Fig. 1, elements 33 and 34); an image capture device to selectively receive an image from one of said first and second optical paths (Fig. 1, element 14); an eyepiece to display the image received by said image capture device (Fig. 1, element 17); and a beam splitter to enable light from the selected optical path to be passed both to an imaging array and said eyepiece (Fig. 1, element 15), said beam splitter including a first surface to receive light on said first optical path, and a second surface different from said first surface to receive light on said second optical path.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8, and 10-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Labaziewicz (U.S. Pat. No. 4,772,903), in view of Ishiguro (U.S. Pat. No. 5,483,284), and further in view of Abe et al. (U.S. Pat. No. 6,130,714).

Regarding claim 1, Labaziewicz teaches an imaging device (col. 1, lines 7-11) comprising: an imaging element; a first optical system to selectively provide an image on a first optical path (Fig. 2, elements 23, 9, X, Y, and Z); and a second optical system to selectively provide an image on a second optical path different from said first optical path (Fig. 2, elements 23, 11, and Z). Furthermore, Labaziewicz teaches providing a viewfinder eyepiece (Fig. 1, element 51; col. 4, line 65-col. 5, line 4).

Labaziewicz does not teach an imaging array; that the eyepiece views the image selectively provided on a selected optical path because the viewfinder eyepiece is not in the optical path of light entering through a first and second lens; a beam splitter coupled to both optical paths to pass light from the selected optical path to the imaging array and said eyepiece.

Although Labaziewicz provides an imaging element, he does not teach that it is an imaging array. However, it is well known in the art to provide a camera with a CCD imaging array to enable the viewing, storing, and/or transmitting images taken by the camera without further processing, such as film processing. For instance, Ishiguro teaches a film camera back may be replaced by a CCD-back (Fig. 3B) comprising a CCD imaging array (Fig. 3B, 8). As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to have provided a CCD imaging array in order to enable the viewing, storing, and/or transmitting of images taken by the camera without further processing, such as film processing.

Furthermore, Abe et al. teaches an eyepiece (Fig. 1A, element 50) to view the image selectively provided on a selected optical path through lens 10; and a beam splitter (Fig. 1A, element 20) to pass light from the selected optical path to the imaging element (Fig. 1A, element 1) and said eyepiece. Please note that while Labaziewicz teaches two optical systems, both are selectively switched onto the same optical path, which would allow the device of Abe et al. to view both the first and second optical systems from a single optical path. It would have been obvious to one of ordinary skill in the art to have provided a beam splitter between a lens system and an imaging array in order to provide an eyepiece in the optical path, which allows a user to view the same image seen by the imaging element free from the effects of parallax. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to have provided a beam splitter between a lens system and an imaging array in order to provide an eyepiece in the optical path, which allows a user to view the same image seen by the imaging element free from the effects of parallax.

Regarding claim 2, Labaziewicz teaches the imaging device is a camera (col. 1, lines 7-11).

Regarding claim 3, Lavaziewicz teaches a second optical system includes a lens with a short focal length (Fig. 2, element 11). Official Notice is given that one of ordinary skill in the art at the time of the invention would have known to have used the imaging device, comprising a lens with a short focal length, for a microscope because a short focal length lens is capable of focusing and magnifying small objects close to the lens.

Regarding claim 4, Lavaziewicz teaches a first optical system includes a lens with a long focal length (Fig. 2; element 9). Official Notice is given that one of ordinary skill in the art at the

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time of the invention would have known to have used the imaging device, comprising a lens with a long focal length, for a telescope because a long focal length lens is capable of focusing and magnifying small objects far away from the lens.

Regarding claim 5, Labaziewicz teaches a back cover opens to permit film loading and unloading (Fig. 1A, element 3). Labaziewicz does not teach the imaging array is a digital sensor. However, Ishiguro teaches a film camera back may be replaced by a CCD-back (Fig. 3B); and the image signal output from the CCD imaging array (Fig. 4, element 112) is processed by a signal processing circuit before being recorded to an IC card (Fig. 4, element 113; col. 3, lines 52-56). Although Ishiguro does not specifically teach that the CCD imaging array is a digital sensor or that the signal processing circuit performs A/D conversion, it is well known in the art to provide A/D conversion before storing an image onto an IC card as a conventional form for storing image data. Official notice is given that it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a digital image sensor by providing an A/D converter for a CCD imaging array for the purpose of converting an analog output of the CCD imaging array into a digital output before storing an image to an IC card since such is conventional in the art.

Regarding claim 6, Labaziewicz teaches a first optical system (Fig. 2, elements 9, X, Y, and Z) includes a shutter (Fig. 2, element 23) and a second optical system (Fig. 2, elements 11 and Z) includes a shutter (Fig. 2, element 23) because the mirror can selectively block light from both the first and second optical systems.

Regarding claim 7, Labaziewicz teaches that shutters are controlled so that only one of the shutters is open at a time (Fig. 2, element 23; col. 3, lines 23-54) because the mirror alternatively shutters

both a first and second optical system.

Regarding claim 8, Labaziewicz teaches a controller enables a user to select (col. 4, line 66-col. 5, line 2) one of said shutters to pass light (Fig. 2, element 23; col. 3, lines 23-54).

Regarding claim 10, Labaziewicz teaches a first optical system includes a lens with a narrower field of view (Fig. 2, element 9) and a second optical system includes a lens with a wider field of view (Fig. 2, element 11) because lens 9 is described as having a long focal length and lens 11 is described as having a short focal length (col. 3, lines 23-25). One skilled in the art would know that the focal length and field of view of a lens are related and would recognize that a long focal length corresponds to a narrower field of view and a short focal length corresponds to a wider field of view.

Regarding claim 11, Labaziewicz teaches a first optical system (Fig. 2, elements 9, X, Y, and Z) includes a first lens (Fig. 2, element 9) and a second optical system (Fig. 2, elements 11 and Z) includes a second lens (Fig. 2, element 11), said first lens having a higher magnification than said second lens because lens 9 is described as having a long focal length and lens 11 is described as having a short focal length (col. 3, lines 23-27). One skilled in the art would know that the focal length and magnification of a lens are related and would recognize that a long focal length corresponds to a higher magnification and a short focal length corresponds to a lower magnification.

Regarding claim 12, Labaziewicz teaches a method comprising: providing a first image to an imaging element (col. 1, lines 7-11) along a first light path (Fig. 2, elements 9, X, Y, and Z); providing a second image to said imaging element along a second light path (Fig. 2, elements 11 and Z); and enabling selective viewing of one of said images (col. 3, lines 23-54).

Furthermore, Labaziewicz teaches a viewfinder (Fig. 1, element 51; col. 4, line 65-col. 5, line 4). Labaziewicz does not teach an imaging array; providing a first and second image along a first and second light path, respectively, to a beam splitter; receiving light from a selected one of said paths in a beam splitter that splits the light from the selected path to cause part of the light to go to said imaging array and part of said light to go to an eyepiece.

Although Labaziewicz provides an imaging element, he does not teach that it is an imaging array. However, it is well known in the art to provide a camera with a CCD imaging array to enable the viewing, storing, and/or transmitting images taken by the camera without further processing, such as film processing. For instance, Ishiguro teaches a film camera back may be replaced by a CCD-back (Fig. 3B) comprising a CCD imaging array (Fig. 3B, 8). As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to have provided a CCD imaging array in order to enable the viewing, storing, and/or transmitting of images taken by the camera without further processing, such as film processing.

Although Labaziewicz teaches a viewfinder, Labaziewicz does not teach providing a first and second image along a first and second light path, respectively, to a beam splitter; and receiving light from a selected one of said paths in a beam splitter that splits the light from the selected path to cause part of the light to go to said imaging array and part of said light to go to an eyepiece.

However, it is well known to provide an eyepiece that directly views the image provided to the imaging element in order to enable a user to compose an image before capturing the image without parallax effects. Abe et al. teaches a viewing system with a beam splitter (Fig. 1A, element 20) located in the light path between a lens system (Fig. 1A, element 10; col. 2, lines 63-67) and an imaging element (Fig. 1A, element I) for dividing the optical path in order to include an eyepiece (Fig. 1A, element 50). It would have been obvious to one skilled in the art to have provided an eyepiece in the light path in order to eliminate parallax effects between the eyepiece and the imaging element. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to have provided a first and second image along a first and second light path, respectively, to a beam splitter; and receiving light from a selected one of said paths in a beam splitter that splits the light from the selected path to cause part of the light to go to said imaging array and part of said light to go to an eyepiece for the purpose of providing an eyepiece in the light path, in order to eliminate parallax effects between the eyepiece and the imaging element.

Regarding claim 13, Abe et al. teaches a selected image is simultaneously viewed by a user and captured by an imaging array (Fig. 1A, elements 50 and I). In addition, while Labaziewicz teaches two optical systems, both are selectively switched onto the same optical path, which would allow the device of Abe et al. to view both images from a first and second optical system from a single light path.

Regarding claim 14, Labaziewicz teaches selectively (col. 4, line 66-col. 5, line 2) shuttering one of the first and second light paths (Fig. 2, element 23; col. 3, lines 27-54).

Regarding claim 15, Labaziewicz teaches selectively (col. 4, line 66-col. 5, line 4) closing one of said first and second optical paths while opening the other of said first and second optical paths (Fig. 2, element 23; col. 3, lines 23-54).

Regarding claim 16, Labaziewicz teaches a first optical system includes a lens with a narrower field of view (Fig. 2, element 9) and a second optical system includes a lens with a wider field of view (Fig. 2, element 11) because lens 9 is described as having a long focal length and lens 11 is described as having a short focal length (col. 3, lines 23-25). One skilled in the art would know that the focal length and field of view of a lens are related and would recognize that a long focal length corresponds to a narrower field of view and a short focal length corresponds to a wider field of view.

Regarding claim 17, Labaziewicz teaches a first optical system (Fig. 2, elements 9, X, Y, and Z) includes a first lens (Fig. 2, element 9) and a second optical system (Fig. 2, elements 11 and Z) includes a second lens (Fig. 2, element 11), said first lens having a higher magnification than said second lens because lens 9 is described as having a long focal length and lens 11 is described as having a short focal length (col. 3, lines 23-27). One skilled in the art would know that the focal length and magnification of a lens are related and would recognize that a long focal length corresponds to a higher magnification and a short focal length corresponds to a lower magnification.

Regarding claim 18, Labaziewicz teaches enabling a user to select (col. 4, line 66-col. 5, line 2) one of first and second optical paths to pass an image (Fig. 2, element 23; col. 3, lines 23-54). In addition, please see the 103 rejection for claim 12 and note that Abe et al. teaches that an image is passed to an eyepiece and an imaging array.

Allowable Subject Matter

Claims 21-23 are allowable or would be allowable if rewritten to overcome any and all objections.

Claims 21-23, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Regarding claim 21, the reason for allowance is as follows: the prior art does not disclose or fairly suggest a first and second optical path includes a first and second shutter, respectively.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Jelinek whose telephone number is (703) 305-4724. The examiner can normally be reached on M-F 8:00 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on (703) 308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian Jelinek
1/24/2005



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